

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

JOHNNY LOPEZ,	:	
	:	
Petitioner,	:	
	:	
v.	:	Civ. Act. No. 05-19-GMS
	:	
THOMAS L. CARROLL,	:	
Warden,	:	
	:	
Respondent.	:	

MOTION FOR EXTENSION OF TIME

Pursuant to Rule 6 of the Federal Rules of Civil Procedure, respondent moves for an extension of time in which to file an answer to the petition. In support thereof, respondent states the following:

1. The petitioner, Johnny Lopez, has applied for federal habeas relief, challenging his November 2003 conviction in Delaware Superior Court for trafficking in cocaine, possession with intent to deliver cocaine, maintaining a dwelling for keeping controlled substances, and possession of drug paraphernalia. D.I. 1. By the terms of the Court's order, the answer is due to be filed on April 25, 2005.

2. In his petition, Lopez raises an issue concerning jury selection in his trial. The docket reveals that the jury selection portion of the proceedings in this case has not been transcribed. In order to properly address Lopez's claim, it is necessary to review the transcript of the jury selection. The record will need to be ordered and then transcribed by the court reporter. Respondent cannot state with specificity when such transcript would be available. However, respondent reasonably anticipates that such production would take approximately 90 days. In light of the situation,

additional time is needed to obtain the necessary records and then complete the answer.

3. Under Habeas Rule 4, the Court has the discretion to give respondents an extension of time exceeding the 40-day limit in Civil Rule 81(a)(2). *Clutchette v. Rushen*, 770 F.2d 1469, 1473-74 & n.4 (9th Cir. 1985); *Kramer v. Jenkins*, 108 F.R.D. 429, 431-32 (N.D. Ill. 1985).

4. This is respondent's first request for an extension of time in this case.

5. Respondent submits that an extension of time to and including August 1, 2005 in which to file an answer is reasonable. Respondent submits herewith a proposed order.

/s/ Elizabeth R. McFarlan
Deputy Attorney General
Department of Justice
820 N. French Street
Wilmington, DE 19801
(302) 577-8500
Del. Bar. ID No. 3759

DATE: April 14, 2005

CERTIFICATE OF SERVICE

I hereby certify that on April 14, 2005, I electronically filed a motion for extension of time and attachments with the Clerk of Court using CM/ECF. I also hereby certify that on April 14, 2005, I have mailed by United States Service, the documents to the following non-registered participant:

Johnny Lopez
SBI No. 459748
Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

/s/ Elizabeth R. McFarlan
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